THE TRUST CLAUSE GOVERNING USE OF PROPERTY IN THE UNITED METHODIST CHURCH

FAITHFULNESS TO THE CONNECTION
ACCORDING TO ESTABLISHED DOCTRINAL STANDARDS

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SUMMARY

To possess United Methodist property requires protecting its doctrinal standards. The burning issue today: Who owns licit title to United Methodist Church property— those who follow the United Methodist doctrine and discipline or those who do not?

Thesis: The doctrinal and disciplinary standards embedded in all property deeds are unmistakably clear, as stated in Books of Discipline both historical and contemporary, since founding and constitutional conferences in 1784 and 1808. The Discipline rightly protects "free inquiry *within* the boundaries defined by" our doctrinal tradition and standards, assuming that "Scripture is the primary source and guideline for doctrine."

The Plan of Union (1968) takes great pains to specify that the phrase "our present existing and established standards of doctrine... [includes] as a minimum John Wesley's forty-four *Sermons on Several Occasions* and his *Explanatory Notes upon the New Testament*. Their function as 'standards' had already been defined by the 'Large Minutes' of 1763, which in turn had been approved by the American Methodists in 1773 and 1785. To these Sermons and Notes the Conference of 1808 added The Articles of Religion" (Disc 1968, p. 35). The Constitution (1808), Plan of Union (1968), and current Discipline (2000) require property deeds to be accountable to United Methodist established doctrinal standards. There is a consistent and continuous historical pattern of title deeds in American Methodism throughout its decisive moments in the Minutes and Disciplines of 1770, 1784, 1808, 1832, 1939, 1968, 1988, and 2000.

To be "subject to the Discipline" requires first of all to be subject to its Constitution, hence subject to the Restrictions on the General Conference set forth in the Constitution, which constrains the General Conference from amending or teaching contrary to the doctrinal standards: Sermons, Notes, and Articles and after 1968, the Confession. The General Conference is strictly prohibited from changing the doctrinal standards by the First Restrictive Rule from 1808 to the present, which states: "The General Conference shall not revoke, alter or change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine."

The Restrictive Rules have become the central fortress of the United Methodist constitutional system. Their doctrinal standards are embedded in every trust clause of every local church and in the Discipline. The trust clause embedded in the property deed transmission is a legal guarantee in a court of law. *The trust clause is not written to protect the Conference, but the doctrinal standards, and to protect the Conference only insofar as the Conference protects the doctrinal standards. The trust clause guarantees the right to use property only to those who are guardians of its doctrinal standards.*

The renewed attention being given to the trust clause provides a promising opportunity for those faithful to the connection to shift the contest for theological integrity in a decisive way. The trust clause has been wrongly viewed as an obstacle. Now the trust clause can be rightly understood to be a legal instrument to call the Conference itself to account under its own Constitution, based on a continuing unchanging tradition of both historical and contemporary legal documents that have juridical and binding import. The Plan of Union (1968) and the Discipline keep the historic trust clause in constant application in every local church, even when not explicit in a local church

deed or mortgage. Bishops and ordained conference members are voluntarily pledged to defend these doctrinal standards, and subject to charges if they inveigh against them. "Faithfulness to the connection" in the Methodist tradition by definition means faithfulness to the doctrinal standards that are constitutionally defined and required in every Discipline and every title deed.

The civil courts have reserved a generous and deferential space of freedom for church law to be administered within conferences by due processes governed by the United Methodist Discipline. The courts facing disputed claims may be asked to decide whether the use and administration of church properties rightly belong to those who follow the doctrinal and disciplinary standards, or those who have disavowed these long-held standards. Civil courts have jurisdiction and valid interests in the following *spheres of distinctively civil action* (as distinguished from church law, doctrine or polity): the legal use of property under the trust clause in property deeds; abuses of constitutional rights under the U.S. Constitution and Bill of Rights (such as limiting freedom of worship, speech, press, or assembly); seizing of property without just compensation; the due performance of contracts; the rights of laity who are faithful to the connection to enter and use the church property they have built and maintained; fairly examining evidences of fraud or malfeasance; and abuses of due process under civil law.

The Order of Consecration of Bishops and the Discipline's paragraphs on the duties of the bishop clearly require the bishop to guard and defend the doctrinal standards. If bishops protect bishops from investigation and trial, leaving the laity with no remedy against bishops who are otherwise unable to be disciplined by any due process, then the faithful in the connection must go back to the most basic understanding of what is permissible according to our property deeds and trust clause.

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THE TRUST CLAUSE GOVERNING USE OF PROPERTY IN THE UNITED METHODIST CHURCH:

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The issue: Who owns title to United Methodist Church property— those who follow the United Methodist doctrine and discipline or those who do not?

I will focus on the Model trust clause of 1773 that formed the pattern for all American Methodist title deeds of local church property, and its relevance to contemporary church property issues.

INTRODUCTION

1. Narrowing the Question

I am asking *what the legal history of deed making (i.e., uniform title deeds of all local Methodist churches) in American Methodism clearly establishes that impinges upon contemporary disputes over who owns the right to occupy and use United Methodist church property today?*

We have duly constitutional, doctrinal and disciplinary standards, which the courts have respected for two centuries. Most observers remain confident that they will continue to respect them. It is on the basis of these constitutionally grounded doctrinal and disciplinary standards that the courts have reserved a generous and deferential space of freedom for church law to be administered within church judicatories by due processes governed by the United Methodist Discipline.

2. Why Now?

In June 2002 a District Superintendent under the direction of her bishop changed the keys on the locks of a local United Methodist Church without notice and without due process. This local board was seeking to follow United Methodist doctrine. Within the last two years several congregations seeking to defend United Methodist polity have been harassed or even expelled from their church property and required to rent space from a local school.

We now can no longer avoid asking: Does a bishop have the right to use or administer or direct conditions for use of local United Methodist Church property if such actions run counter to the trust clause under which properties are legally chartered? And especially— *how do established doctrinal and disciplinary standards impinge upon the use of property according to the trust clause?*

What follows is an advisory opinion based upon many years of study of constitutional Methodism. I welcome critical responses from all who care about the unity of the church and the integrity of our doctrine.

We are not inquiring into the criteria for judging what can be licitly preached in United Methodist churches. This is a long settled question. Rather we are inquiring into what happens when a duly appointed judicatory official (bishop, district superintendent, pastor or conference) teaches or acts contrary to established church law.

If local church boards and pastors who are faithful to doctrinal and disciplinary standards are thwarted by those who teach contrary to United Methodist disciplinary standards (with the faithful being unjustly deprived of their local church property, their locks changed, and their property confiscated by those who are not following disciplinary standards), where is the remedy to be found? This is not a purely theoretical question.

3. Thesis

Thesis: There already exists a *legitimate recourse under church law— the model title deed* in the American Methodist tradition, which for over 200 years has impinged upon civil court judgments on how the property of the local church is rightly to be governed and used. But its implications have not been adequately understood or applied.

The doctrinal and disciplinary standards embedded in these deeds are unmistakably clear. They are stated in every Book of Discipline and have been substantially and repeatedly stated since founding constitutional conferences in 1784 and 1808 without change, and without diminution.

4. My Purpose

When the guardianship trust vested in judicatory officials (including bishops, conferences, pastors and boards of trustees) has been neglected or abandoned or misplaced or disavowed, those parties do not have a clear or legitimate claim to the use of church property. Rather those who support the doctrine and discipline of the United Methodist Church have legitimate recourse to the courts that they be allowed not only to use Methodist church facilities, but that they be protected from being denied access to these facilities. I will show textually that the standards are clear and binding.

PART ONE:

PROPERTY DEEDS AND ESTABLISHED DOCTRINES

A. LEGAL CRITERIA AFFECTING THE WAY CHURCH PROPERTY DEEDS AND MORTGAGES ARE WRITTEN

1. Titles in Trust in Church Property— a Legal Duty Within the Secular Order

It is recognized in church law that the United Methodist ministry "exists in the secular world and that civil authorities may seek legal definition predicated on the nature of the United Methodist Church." (Disc., 2000, para. 139, pp. 93-4). While the church is of God, it lives within the context of a civil society, and hence must duly account for its property as a matter of secular and civil accountability.

2. The Trust Clause Embedded in Every Local Church Property Deed

Every local church must have a property deed that places it under the authority of the historic *trust clause*. The title requirement in the Discipline: "Titles to all real and personal, tangible and intangible property ... shall be held in trust for the United Methodist Church and *subject to the provisions of its Discipline.*" (Disc., 2000, para. 2501, p. 649, italics added; see also para. 2503.1, p. 650). It is precisely the provisions of the constitution and the Discipline that state clearly the texts of the established standards of doctrine and discipline and their central importance for the use of property.

3. Every Trust Clause Embedded in Every Local Church Deed is Subject to the United Methodist Constitution and Discipline

Properties are not held legally without reference to the constitutional doctrine and discipline of the United Methodist Church (Disc., 2000, para. 16, Restrictive Rules, p. 27). "All written instruments of conveyance by which premises are held or hereafter acquired for use as a place of divine worship or other activities for members of The United Methodist Church shall contain the following trust clause: *In trust, that said premises shall be used, kept, and maintained as a place of divine worship of the United Methodist ministry and members of The United Methodist Church, subject to the Discipline, usage, and ministerial appointments of said Church* as from time to time authorized and declared by the General Conference" (Disc., 2000, para. 2503.1, p. 650, italics added). This is the ground level defense of property usage according to United Methodist doctrinal standards, as I will show.

4. There Are Four Specified Historical and Contemporary United Methodist Doctrinal Standards

The Plan of Union accepted by the Evangelical United Brethren and Methodist traditions in 1968 takes great pains to specify that the phrase "our present existing and established standards of

doctrine," includes "as a minimum John Wesley's forty-four *Sermons on Several Occasions* and his *Explanatory Notes upon the New Testament*. Their function as 'standards' had already been defined by the 'Large Minutes' of 1763, which in turn had been approved by the American Methodists in 1773 and 1785. To these *Sermons* and *Notes* the Conference of 1784 added the Articles of Religion" (Disc., 1968, Preface, Part II, p. 35 and continuously sustained in subsequent Disciplines).

5. Even Without an Explicit Local Trust Clause the Duty to Guard and Maintain These Four Doctrinal Standards Remains In Effect "Subject to the Provisions of the Discipline"

Suppose, however, someone objects: "We have examined our local church deed and we do not see any explicit reference to the Sermons, Notes, Articles, or Confession. How could a trust clause be enforceable if there is no explicit reference to the texts of the doctrinal standards?" Good question, and there is a highly explicit and unambiguous answer.

There can be no local church deed without its being "subject to the provisions of the Discipline." Otherwise it could not legally use the insignia "The United Methodist Church". Absence of explicit reference does not legitimate ignoring of the Constitution and Discipline. The deed functions precisely under accountability to the Discipline and its doctrinal standards. The Discipline compacts into legislative and administrative language the entire cohesive and continuous history of legal conveyance and deed making that we will be explicating, which is a consistent and unabrogated tradition.

The very reason for the trust clause in deeds is to protect the doctrinal standards, not the Conference, and the Conference only insofar as it protects the doctrinal standards. The Restrictive Rules as interpreted by the Plan of Union and subsequent Disciplines textually specify the documents of the doctrinal standards (Disc., 2000 para. 103, pp. 59-74). Only on this basis can the reversion clause apply, that may require the property to revert under due process to the Conference Board of Trustees if the Discipline is not followed.

If for some reason there is an "absence of a trust clause" as stipulated above, the Discipline explicitly states that this in no way excludes "a local church or church agency, or the board of trustees of either from, or relieve it of, its connectional responsibilities to The United Methodist Church," which under its constitution is legally bound to guard and respect its own doctrinal standards embodied in the Sermons, Notes, Articles and Confession. The absence of an explicit trust clause does not "absolve a local church or church agency or the board of trustees of either, of its responsibility and accountability to The United Methodist Church" (Disc., 2000, para. 2503.6, p. 651) which stands under the specific constraint of its established doctrinal standards. "The Confession" is included in protected doctrinal standards after the Plan of Union in 1968, in reference to the Evangelical United Brethren Confession of Faith. Hence there are in the United Methodist Church four texts of doctrinal definition: three from The Methodist Church doctrinal tradition: Articles, Sermons, and Notes; and one from the EUB doctrinal tradition, the Confession.

Much of the remainder of this argument focuses on the next point:

6. Use of Property Under the Trust Clause is Subject to the Discipline's Doctrinal Standards

Title to all United Methodist church property, whether it is "taken in the name of the local church trustees, or charge trustees... or otherwise," is "held subject to the provisions of the Discipline" (Disc., 2000, para. 2504, p. 651), hence the doctrinal standards that the Discipline holds inviolable. Title to real property is held in the name of the local church in constructive trust for the benefit of the United Methodist Church but always subject to its doctrinal and disciplinary standards. To be "subject to the usages and the Discipline of The United Methodist Church" (Disc., 2000, para. 2503.5) requires first of all to be subject to its constitution, hence subject to the Restrictions on the General Conference in the constitution, which limits the General Conference or any Conference from amending or negating the doctrinal standards: Sermons, Notes, Articles and Confession.

Since church property "*shall be held, kept, maintained, and disposed of for the benefit of The United Methodist Church and subject to the usages and the Discipline of the United Methodist Church,*" (Disc., 2000, para. 2503.5, p. 650) there can be no licit uses of the property that are not subject to the Discipline, and therefore the doctrinal standards. "This provision [the trust clause] is solely for the benefit of the grantee" (Disc., 2000, para. 2503.1, p. 650). Who is the grantee? Precisely the United Methodist Church which is "subject to the Discipline", which is itself the steadfast protector and guarantor of the doctrinal standards.

Hence no local or conference Board of Trustees that holds property in trust for the United Methodist Church can function legally apart from the constitutional guarantees of the Restrictive Rules which limit the General Conference and Annual Conferences concerning doctrinal standards. No property can be duly used apart from its being "authorized and declared by the General Conference," which stands under the constraints of these Restrictive Rule which requires use of property to be restricted to responsible accountability to "our doctrinal standards"—namely, when specified as texts: Sermons, Notes, Articles, and Confession.

No use of property is licit "that violates the right of the Church to maintain connectional structure," recalling that the notion of connection for two and a half centuries has meant connection with Mr. Wesley, as defined in his writings, and notably in his Standard Sermons and Notes (Disc., 2000, para. 2506, p. 652).

B. HOW THE PLAN OF UNION KEEPS THE TRUST CLAUSE IN CONSTANT APPLICATION, EVEN WHEN NOT EXPLICIT IN THE LOCAL CHURCH DEED

1. The Plan of Union (1968) is a Legal Instrument

The Plan of Union is a legal instrument that defines the lawful status of the trust clause in property deeds of the successor organizations of the former Methodist Episcopal Church, Methodist Episcopal Church South, the Methodist Church, and the Evangelical United Brethren Church. All formerly devised deeds are folded into the Plan of Union, as specified in all subsequent Books of Discipline.

2. The Plan of Union Maintains the Manner and Conditions of Deeds Apart from Lapse of Time or Usage

A central feature of the Plan of Union is the provision stated explicitly in every United Methodist Discipline: "Nothing in the Plan of Union at any time after the union is to be construed so as to require any existing local church of any predecessor denomination to the United Methodist Church to alienate or in any way *to change the title to property contained in its deed or deeds at the time of union, and lapse of time or usage shall not affect said title or control.*" (Disc., 2000, para. 2504, p. 651, italics added; also protected in Section VIII of the Local Church on Protection of Rights of Congregations, Disc., 2000, para. 261, p. 172).

The "time of union" was 1968. No trust clause written after that time can fail to be legally bound to the Restrictive Rule established in 1808 and confirmed in 1968, in reference to our doctrinal standards, the Sermons, Notes, and Articles, and after 1968, the Confession. The stated purpose of paragraph 2504 was to show the continuity between the trust clauses before the Plan of Union and after, and to make it easier under the conditions of merger to properly maintain and examine and prove merchantable titles after the Plan of Union in all jurisdictions. The trust clauses of title deeds written before 1968 at the time of union are not in any way to be alienated or changed by lapse of time or usage as distinguished from those written after 1968.

Crucial to this argument is the next step:

3. The Plan of Union Confirms That the Four Doctrinal Standards Are Textually Specific

The Plan of Union of 1968 clearly specifies that the phrase "our present existing and established standards of doctrine," includes "as a minimum John Wesley's forty-four *Sermons on Several Occasions* and his *Explanatory Notes upon the New Testament.*" (Disc., 1968, Preface, Part II, p. 35). "In the present plan of Union... the Confession, the Articles of Religion *and the Wesleyan 'standards'* are thus deemed congruent if not identical in their doctrinal perspectives and not in conflict" (Ibid. p. 36, italics added). These four documentary standards are protected by Restrictive Rules from revision or abrogation by any General Conference acting on its own authority or without amending the Exception of 1832. Title deeds from the beginning have been written in order to protect these doctrinal standards. This is what I will show textually in what follows.

The record of the proceedings of the General Conference of 1972 stated: "We have tried to clarify the contextual relationships between the Articles, the Confession, and Wesley's Sermons and Notes and Rules in order to clarify the reference in the First Restrictive Rule about 'our present and existing and established standards of doctrine'. We have not altered these standards" (1972 DCA, p. 291).

By 1980 it was legislated: "The Discipline seems to assume that for the determination of otherwise irreconcilable doctrinal disputes, the Annual and General Conferences are the appropriate courts of appeal, *under the guidance of the first two Restrictive Rules (which is to say, the Articles and Confession, the Sermons and the Notes.)*" (Disc., 1980, para. 67, p. 49).

4. The Plan of Union Requires Property Deeds to Be Accountable to United Methodist Doctrinal Standards

The Plan of Union cannot be circumvented licitly by any Conference, bishop, Committee of Investigation, or Judicial Council. *If the right of a local church or pastor to teach according to United Methodist doctrinal standards is tested in any civil court, the Plan of Union must be quoted directly as a legal instrument binding on all subsequent United Methodist polity* and all subsequent General Conferences, since it belongs permanently and intrinsically to the Plan of Union: "*Wesley's Sermons and Notes were specifically included in our present existing and established standards of doctrine by plain historical inference.*" (Disc., 1984, p. 49).

The current Discipline states even more tersely that "Wesley's *Sermons* and *Notes* were understood specifically to be included in our present existing and established standard of doctrine" (Disc., 2000, para. 102, p. 58), hence not just inferentially. The once contested debate (leading up to the General Conference of 1988) about the strength and purport of "plain historical inference" was settled by the 1988 General Conference, and remains textually embedded in all subsequent disciplines to date as Articles, Confession, Sermons and Notes (Disc., 2000, para. 102, p. 58).

It is too late to revisit or revise the legally binding constitutional decisions made in the Plan of Union. Even if the terms of the Plan of Union do not appear in detail in a local church deed, that does not abrogate the terms of Union, as the Discipline makes clear. These were settled in 1968 as an act of civil law. A complex set of judicial challenges would follow from any attempt to revise the Plan of Union.

This legal clause constitutes a remarkable guarantee from the 1968 Plan of Union that *the trust clause in deeds cannot be circumvented or changed from the conditions legally established in the constitution* (of the 1808 General Conference with its Restrictive Rules). This means: Any future local title deeds that are legally written for any future local United Methodist Church stand legally accountable to the doctrinal standards of the Sermons, Notes, Articles, and Confession. Any future merger must respect the trust clause that limits the ability of any future General Conference to emend or revamp any of the established doctrinal standards. The Plan is clear and specific: "Title to all property of a local church, or charge, or agency of the Church shall be held subject to the provisions of the Discipline" (Disc., 2000, para. 2504, p. 651), hence subject the Restrictive Rules whose very purpose is to guard these textual doctrinal standards– not merely a general set of ideas, but these specific texts.

5. What If the Trust Clause is Violated?

The naked title for *ownership* of local Methodist Church property normally lies in the hands of the local church board of trustees. Their *use* of the property is conditioned upon the trust clause.

(a) If the trust clause is violated by the local church, the property can, through due process, revert to the Annual Conference Board of Trustees or an agency vested with accountability under the trust clause. When asked to decide whether "the voluntary placement of a 'Trust Clause' on the title deed of real property" when discontinued or abandoned allows funds to be used "in another location", the Council answered that "the provisions of the Discipline shall be administered and/or disposed of under the authority of the Annual Conference through the Annual Conference Board of Trustees" (JCD 688, 1993).

(b) If the trust clause is violated by the conference or agency or judicatory itself, the judicatory officials may be liable to the charge of teaching contrary to doctrinal standards and discipline. Bishops and ordained conference members, all of who are solemnly and voluntarily pledged to defend these doctrinal standards, are subject to charges if they inveigh against these doctrines. The tables are now turning from (a) to (b). The consequences of these legal instruments have not yet been tested in detail in either church law or civil law, but to the extent that certain disturbing patterns increase, they likely will be tested, and all the documentary evidence is in place for a sure defense of constitutional standards of doctrine, as stated in this memorandum.

Suppose a judicatory, bishop, or Annual Conference publicly, flagrantly and repeatedly is determined to resist official United Methodist doctrine and discipline. The connectionally faithful local church laity have a right to be protected from flagrant doctrinal and disciplinary abuses and evasions, even and especially when done by a judicatory official. We have many precedential cases of the title of local church property reverting to the conference when the local church violates doctrine or discipline. But we still have ahead of us the challenge of argument for cases where the conference itself violates its own constitutional doctrine or discipline. In my view, there is nothing in historic or contemporary United Methodist Discipline to protect the Conferences or bishops from full accountability to the trust clause.

This brings us to distinguish between two different types of connectionalism, faithful and unfaithful.

C. FAITHFULNESS AND UNFAITHFULNESS TO THE CONNECTION ACCORDING TO ESTABLISHED DOCTRINAL STANDARDS

1. What Does it Mean to be Faithful to the Connection?

"*The connection*" is a crucial concept characteristic of Methodist doctrine and polity, and has been crucial since the earliest Conference of 1744, where the ministers "in connection with Mr. Wesley" were brought together under his leadership to confer on doctrine and discipline.

Faithfulness to the connection in the Methodist tradition by definition precisely means *faithfulness to the doctrinal and disciplinary standards that are constitutionally defined and required in every title deed.* This is a duty for anyone who administers United Methodist church property.

Unfaithfulness to the connection would imply any form of preaching or teaching contrary to our doctrinal standards protected in every trust clause. This is, at least in theory, a chargeable offense for any one who has become ordained to sacred ministry, which is a binding, solemn and voluntary act.

2. The Question of Faithful Versus Unfaithful Connectionalism

We are not here discussing the issue between congregational polity (which would make the local congregation the sole authority for local policy) versus connectional governance (which makes the Discipline the authority for local church policy). Every party in this discussion views him or

herself as dedicated to connectional governance. Rather we are only talking about a faithful connectionalism versus an unfaithful abuse of connectionalism.

The question is not whether a local church *disobedient* to doctrinal and disciplinary standards has a right to challenge the use of connectional church property apart from established church law. That is not here a contested question. The question rather is *what happens when judicatory officials who have been authorized to guard the discipline default on that guardianship, or when they take measures against precisely those who faithfully uphold the Discipline*?

It may seem an anomaly that most voices in conflicted property situations consider themselves to be faithful to the connection. No voice that I know of is still arguing against connectionalism or for congregational polity. The issue is rather what constitutes connectionalism doctrinally, and how is it related to the connection with Mr. Wesley and the authorized texts of his writings.

The urgent question before us is: what right do judicatory officials (bishops, conferences, conference trustees) have to act against established church law and doctrine? This is a question of *faithfulness to the connection* versus *unfaithful abuse of the connection*, in which unfaithful precisely means unfaithful to doctrinal standards. *This is a debate occurring entirely within the arena of Methodist connectional polity, not outside it, not on the premise of an alleged autonomous or congregational local authority, which all parties disavow.* No defender of Methodist doctrine who knows Methodist history and polity could plausibly argue that the local congregation is the final legitimate source for determining Methodist doctrine. Our polity is not Congregational or Presbyterian or Synodal or charismatic, but Methodist and Wesleyan in its connectionalism, which means a direct relation to Mr. Wesley and his teaching.

Those who are *unfaithful to the connection* and its doctrine have shown signs of being at times ready to disavow those standards of doctrine and discipline and yet still attempt to hold on to the property, and to administer its use against disciplinary standards. This is being challenged as illicit.

Those who are *faithful to the connection* and its doctrine seek to guard, protect, defend, and embody the connectionally established doctrinal standards. The faithful in the connection are asking the courts of church law and if necessary civil law strictly to respect the often-upheld constitutional history and the right to teach United Methodist doctrine. The faithful in the connection may (unless there are correctives) be proceeding toward the point of having to *ask the courts to understand and respect the bearing of the standard history of the trust clause and its constitutional status upon the present use and administration of United Methodist local church property in America*. This, as I will show, is a continuing tradition with substantive continuity and cohesion. This is our next subject.

D. WHAT THE PASTOR IS REQUIRED BY CHURCH LAW TO KNOW ABOUT DOCTRINAL STANDARDS

1. Is the Pastor as Local Administrator of United Methodist Church Property According to Title deed Criteria Responsible for Knowing the Standards?

Every ordained elder and bishop must answer formally the question: "Have you studied the doctrines of the United Methodist Church? After full examination do you believe that our doctrines are in harmony with the Holy Scriptures? Will you preach and maintain them?" (Disc., 2000, para. 327, p. 214). Failure to answer yes from the heart, *ex animo*, with sincerity, will call into question or jeopardize one's ministerial credentials and accountability. What is included in "the doctrines of the United Methodist Church"? It is clear: Sermons, Notes, and Articles (and after 1968 the Confession).

2. Doctrinal Standards are Settled Church Law

The doctrinal standards of the United Methodist Church have been clearly agreed to and established since the earliest deeds in 1773 and the founding Christmas Conference of 1784 and the constitutional Conference of 1808 (as further strengthened by the Exception of 1832). Since 1988 there has been no doubt about the meaning of "our doctrinal standards," textually defined and repeatedly reconfirmed.

Bishop Holland N. McTyeire summarized: "American Methodists (1781) vowed to 'preach the old Methodist doctrine' of Wesley's 'Notes and Sermons.' May, 1784, 'the doctrine taught in the four volumes of the Sermons and the Notes on the New Testament' was reaffirmed. The Deed of Declaration (February, 1784) legally established these standards in the present body. The Rule (1808) guards them equally with the Articles" (Manual of the Discipline, Nashville, Southern Methodist Publishing House, 1870, 20th edition, 1931, p. 131).

The question of "theological pluralism" (referred to in the Discipline of 1980, 69 p. 72) has since 1984 been placed "under the guidance of our doctrinal standards" (Disc., 1984, 72). The General Conference of 1988 voted specifically to put theological pluralism under the governance of the Sermons, Notes, Articles, and Confession, along with the General Rules. This core is a standard that has even been made into a virtually invincible dictum by the Restrictive Rules.

Since we are here discussing only the core documents of our doctrinal standards protected by the constitution and pertinent to the trust clause, we are not entering here into speculations about other documents that may lie on the penumbra of this core, but these have been thoroughly discussed in my documentary history of Doctrinal Standards in the Wesleyan Tradition (Grand Rapids, Zondervan,1988, hereafter DSWT). There one can find a more explicit discussion of ancillary issues on the penumbra: the number of sermons in the standard sermons, occasional pamphlets, the "Binding Minute," the Ward Motion, and other issues.

3. The Purpose of the Doctrinal Standards

United Methodist doctrinal standards are designed to serve as: (a) a summative guide for Christian teaching concerning the central truth of scripture; (b) an authoritative source textually to define the official teaching of the church; (c) a means of protecting the abuse of church property by dissemination contrary doctrines; (d) an authoritative constitutional standard to which one may appeal in matters under controversy; and (e) a criteria for monitoring and regulating the teaching office of the church, its bishops, superintendents, pastors and conferences, to defend against abuses and to unite a diverse church (DSWT 21).

These are the well-tested long-standing, constitutionally grounded reasons for having and maintaining established doctrinal standards. They are binding not strictly speaking upon lay church members, but they are binding upon all those who have been duly ordained to fulfill the teaching office in the local church, whether bishops, elders, deacons, church officials, conference leaders, or trustees of local churches.

The doctrinal standards fulfill three complementary purposes, according to one of the leading 19th century Methodist constitutional historians: "*The standard of preaching*— the fifty two sermons embraced in the four volumes; *the standard of interpretation*— the notes on the New Testament; and *the standard of unity* with the sister churches of the Reformation— the Twenty-five Articles" (N. Burwash, Wesley's Doctrinal Standards, hereafter WDS, Toronto: Wm. Briggs, 1881, preface, x, italics added).

To recapitulate: (a) The four volumes of Sermons on Several Occasions (first volume published in 1746) place church teaching under the authority of scripture and serve as doctrinal standards for preaching. (b) The Notes Upon the New Testament (1755) link our standards with the exegesis of the original apostolic witness. (c) The Articles (1784) state "our common heritage from the great principles of the Protestant Reformation, and from the still more ancient conflicts with error in the days of Augustine and Athanasius" (Burwash, WDS, preface, x).

4. The Intended Audience for these Reflections

Who is the intended audience for this sober reflection? Chiefly United Methodist *lay people* who want to understand their rights to their property under United Methodist church law. At times they may feel that they are having to work hard to clarify, actualize and enjoy these rights. But this documentation shows, they are well guaranteed by the constitution, the Discipline, and the trust clause in property deeds.

This is also a memo on constitutional history for pastors, and those who counsel with pastors on their legal rights, who may be seeking to present arguments in cases requiring due process, before judicatories, Conference Boards of Ministry or committees of investigation, or the Judicial Council, or even under extreme conditions of unremedied abuses, arguments in civil courts where questions of civil rights and due process may be contested. This is also an opinion offered to the chancellors and legal advisors of Conferences, who may not have had adequate access to the constitutional, legal, and historical documentation showing the unity and continuity of our doctrinal standards, and their relevance for the use of local church property. This is also an advisory opinion for bishops and their cabinets, who are charged with the duty of defending our doctrinal standards and implementing our disciplinary standards.

If a church board or pastor is being harassed by judicatory officials who do not themselves understand adequately their own fiduciary duty and responsibility to defend Methodist doctrine and discipline, the board or pastor must *be prepared to state arguments and quote accurately the precise texts of these long-standing legal and constitutional guarantees.*

The courts facing disputed claims are being asked to decide whether the use and administration of

church properties rightly belong to those who follow the doctrinal and disciplinary standards, or those who have regrettably disavowed these long-held standards without challenge. If we are to enter into an adjudication of conflicted views on the responsible uses of local church properties, we cannot do so constitutionally without understanding the history, continuity, cohesion, and juridical force of these doctrinal standards. We must understand this history, so I will review it briefly.

PART TWO:

DOCUMENTING THE HISTORICAL RECORD OF THE RELATION BETWEEN PROPERTY DEEDS AND DOCTRINAL STANDARDS

A. THE CONTINUOUS HISTORICAL PATTERN OF DEEDS OF CONVEYANCE (1770, 1784, 1808, 1832, 1968)

1. The Earliest American Property Deeds (1770-1784) Stood in Continuity With Wesley's Model Deed

Legal deeds in America strictly followed the pattern of Wesley's model deed for meetinghouses (1763). The sustained continuity and cohesion of this tradition can be demonstrated textually by five decisive documents:

(a) The *earliest recorded legal deeds* for use of Methodist church properties in America repeat verbatim the pivotal phrase in Wesley's "model deed": Preach "*no other doctrine than is contained in the said John Wesley's Notes upon the New Testament and his four volumes of Sermons*" (deed of trust of the John Street Methodist Church in New York City, Nov. 2, 1770, and the same language in St. George's meeting house in Philadelphia, June 14, 1770, Bishop Thomas Neely, Doctrinal Standards of Methodism, NY, Revell, 1918, 139, hereafter DSM). The Articles of Religion (1784) had not yet been redacted by Wesley, but the standards of the model deed were in place in the earliest property deeds. Bishop Ole Borgen writes that "the earliest deeds of record in America followed Wesley's form of 1763", the model deed, ("Standards of Doctrine in the United Methodist Church: Never Revoked, Altered or Changed?" Drew University lecture, Oct. 8, 1986, 2).

(b) *The Asbury Memorandum of 1773*. Francis Asbury wrote this memorandum on the first American Annual Conference (1773): "The following propositions were agreed to: 1. The old Methodist doctrine and discipline shall be enforced and maintained amongst all our societies in America. 2. Any preacher who acts otherwise can not be retained amongst us as a fellow-laborer in the vineyard" (Journal and Letters 1:85).

(c) *The Conference Minutes of 1780* legally formalized and confirmed the principle that "all the

deeds shall be drawn in substance after that in the printed [then British] Minutes" (Minutes of the Annual Conferences of the Methodist Episcopal Church for the Years 1773-1828, New York: T. Mason and G. Lane, 1849, hereafter MAC, 1780, 12, cf. Tigert A Constitutional History of American Episcopal Methodism, 2nd ed., Nashville: Smith and Lamar, 1904, hereafter CH, 113). "The American chapels and meetinghouses had been generally settled according to the form of the deed used in England since 1750" (Tigert, CH, 113).

(d) Preachers were required in *the Subscription of 1781* to subscribe to this Minute: "after mature consideration, close observation and earnest prayer, to preach the old Methodist doctrine, and strictly enforce the discipline as contained in the Notes, Sermons, and Minutes published by Mr. Wesley" (MAC 1781, 13, probably by signature).

(e) *Wesley's letter of 1783 to the Conference.* Wesley wrote "To the Preachers in America", sent through Jesse Lee and received at the Conference: "Let all of you be determined to abide by the Methodist doctrine and discipline, published in the four volumes of Sermons, and the Notes Upon the New Testament, together with the Large Minutes of the Conference" (Letters of John Wesley, 8 vols. London: Epworth, 1931, 7:191).

There is no discontinuity or ambiguity whatever in this tradition, which takes us up to Christmas, 1784.

2. The Founding Conference of 1784

For the Founding Conference, Baltimore, Christmas, 1784, Wesley's abbreviation of the Thirty-nine Anglican Articles was included among the already established doctrinal standards for American Methodism. The Articles did not supplant, but complemented the Sermons and Notes. By this time the Anglican clergy had largely abandoned the colonies before the Revolutionary War. This made it urgent and necessary for Wesley to free the Methodist preachers in America not only to preach the Word, but to baptize and administer the Lord's Supper. At that time Wesley redacted the Thirty-nine Anglican Articles into Twenty-four Articles, to which another was added (as Article XXIII) on the sovereignty and independence of the USA, making Twenty-five. The Articles did not attempt to define doctrine that distinguished Methodist distinctives from Anglican, but rather sought to define that which was held in common with Anglican and Reformation teaching, doctrines "maintained more or less, in part or whole, by every reformed church in the world" (Disc., 1798, Notes, Preface).

The "binding minute" of 1784 (MAC, 1784, Question 2) showed that there had been no change of doctrine in the transition to America, and that Methodists in America were still firmly bound to the connection with Mr. Wesley and his teaching. To be "in connection" precisely means to be in connection with Mr. Wesley and his teaching. Methodist preachers continued to "be active in dispensing Mr. Wesley's books" (John Tigert, CH 27), a mandate repeated in all the Disciplines from 1784 to 1808. Wesley's sermons were thereafter regularly republished by the General Conference to make sure that these standards were not revised or issued without authorization (MAC, 1773, 5). Over sixty editions of Wesley's Sermons on Several Occasions were published in the years between 1784-1860! This is evidence that they were not, as some have imagined, neglected during this period.

3. The Principle of Non-Abrogation in the Trust Clause in Methodist Deeds

Throughout these developments the legal rule applied that "laws not repealed are laws in effect." This principle of non-abrogation is agreed upon by virtually all Methodist constitutional authorities (Curtiss, Wheatley, Tigert, Buckley, Harrison, Neely, Lewis and Outler). There is no record of any abrogation of the basic form of the trust clause in Methodist deeds in America.

While critical and constructive theological work is encouraged, the textually specified documents embodying the doctrinal standards do not change. The Discipline affirms that "our theological task includes the *testing, renewal, elaboration and application of our doctrinal perspective.*" This encourages "serious reflection across the theological spectrum" (Disc., 2000, para. 104, Section Four, p. 75, italics added), but never apart from or contrary to the texts of the doctrinal standards.

"The United Methodist Church stands continually in need of doctrinal reinvigoration for the sake of authentic renewal, fruitful evangelical, and ecumenical dialogue," (Disc., 2000, para. 102, pp. 58-59). "*The process of creating new 'standards or rules of doctrine' thus continues to be restricted, requiring either that they be declared 'not contrary to' the present standards or that they go through the difficult process of constitutional amendment.*" (Disc., 2000, para. 102, pp. 58-59, italics added).

4. The Purposes of the Trust Clause

The purposes of the trust clause from its earliest historical expressions are clear: "(i) to secure that Methodist Trusts should everywhere be drawn up on a uniform and approved plan, and that the trustees be bound to administer them on behalf of the whole Methodist Church," yet conforming to varied local laws (Selections from John Wesley's Notes on the New Testament, ed. John Lawson, London: Epworth, 1955, Introduction, hereafter SWN). And "(ii) to secure legal power to exclude from Methodist pulpits any persons holding opinions alien to the genius of Methodism; (iii) to secure that if in any local Church a discontented section wishes to sever itself from the Methodist Church as a whole, and from Conference, it shall not have the power to take possession of the trust property." (SWN, Ibid.). For two centuries the trust clause has exercised this steady service to connectional Methodism, as a rugged legal defense for Wesleyan connectionalists, and a stumbling block to schism.

5. The Trust Clause Grants the Right to Property Use Only to Those Who Protect Doctrinal Standards

It is erroneously assumed by some that the judicatory or bishop or conference, *whether faithful or unfaithful to the doctrinal standards,* has a right to direct the use of Methodist church property. The evidence proves the opposite. It is only on the basis of faithfulness to the standards that one has a right to the use of the property. One who abandons faithfulness to the standards has no right to the property. That is precisely what the deed says, and what it is written to protect.

The trust clause was not devised to protect the Conference as such, but the doctrinal standards. The trust clause guarantees the right to use property only to those who are guardians of its

established doctrinal standards. The choice to inveigh against the doctrinal standards (on any constitutionally protected subject— on idolatry, witchcraft, paganism, anti-trinitarianism, sexual abuse, the value of life, as found in the Articles, Sermons, and Notes, and later Confession) disqualifies the unfaithful from the legitimate right to use the property with impugnity. Those who are determined to preach against the trinity and incarnation and the dignity of marriage have dubious legitimate right to the property because these teachings are prominent in the standards.

This is the stated purpose of the trust clause which entrusts the property to those who follow Methodist doctrine and discipline: "To have these considerable legal powers in reserve is a valuable and necessary factor in maintaining the life of our Church as an ordered connexion" (SWN, Ibid.).

Those who preach Methodist doctrine have a right to use Methodist property. Those who dissent from or inveigh against Methodist doctrine have no such legal right, for they have chosen to work apart from the connection and contrary to Methodist doctrine.

This trust clause in the property deed transmission is a legal guarantee, which has been upheld by civil courts of law. That is what deeds are for— legal protection. Those who are faithful to the connection and its doctrines are ironically now having to contend against those who imagine that they have the right to disobey these very teachings in the name of connectionalism. They are now learning that the trust clause embedded in every property deed in Methodism is not merely a sentimental piece of archaic paper, but even today a binding legal instrument.

B. THE DEED OF SETTLEMENT (1796), THE RESTRICTIVE RULES (1808), AND THE EXCEPTION OF 1832: Bulwarks to the Doctrinal Standards in Conjunction with the Trust Clause

1. How the Deed of Settlement Made the Doctrinal Standards a Judiciable Matter of Civil Law

The Deed of Settlement of 1796 became the standard post-Revolutionary model of the title deed for local churches in America (Journal of the General Conference, 1796-1836, with date, New York: Carleton and Phillips, 1855, hereafter JGC 1796, 9). It was a legal instrument that set aside properties for preaching in accord with and nothing contrary to Methodist doctrinal standards, standards firmly established prior to this time, and repeatedly reconfirmed.

The local trustees were granted by the Deed of Settlement and all its successor deeds the right to mortgage, buy, and sell, but not to change doctrine. No preacher could join the connection without agreeing to "abide by the Methodist doctrine and discipline published in the four volumes of Sermons and the Notes" (Minutes of the Methodist Conference Annually Held in America from 1771 to 1794, Philadelphia: Henry Tuckness, 1795, 1783; cf. Jesse Lee, History of the Methodists, Baltimore: McGill and Clime, 1810). The Deed of Settlement provided a legal instrument that could be applied to the various laws of the states of the United States, while reconfirming doctrinal unity with the entire previous connectional history of Methodism.

2. The Concept of Union in the Methodist Doctrinal Connection and Its Relation to the Standard Title deed

The very concept of 'union' in the Methodist connection cannot be separated from doctrinal considerations. *The union was in order to preserve the doctrinal teaching, not vice versa.* The trust clause is provided legally to protect these local church properties from threatened apostasies or offenses against established doctrinal standards.

When the various British Methodist traditions organically united in 1932 (Methodist New Connection, 1846, Bible Christians, 1863, United Methodist Free Churches, 1842-1864, and the Primitive Methodists, 1864), all of these groups were merged on the specific doctrinal basis of "*the essential similarity of the trust deeds*" (Notes on Wesley's Forty-four Sermons, ed. John Lawson, London: Epworth, 1946, italics added). It was the trust deeds that legally held together the union, not the union that legitimated the trust deed.

These three standards in American Methodism before The Plan of Union — Sermons, Notes, and Articles— (plus the Confession after the 1968 Union) thus became "the non-compressible core of 'our present existing and established standards of doctrine' and it is still in legal force to this day" (Albert Outler, "The Methodist Standards of Doctrine", Perkins School of Theology, 1958, iv, 6). Virtually all major Methodist constitutional historians (N. Bangs, N. Burwash, H. McTyeire, G. L. Curtiss, T. Neely, H. Wheeler, J. Tigert, N. Harmon) agree on this point.

3. How the General Conference was Strictly Prohibited from Changing the Doctrinal Standards by the First Restrictive Rule of 1808

The General Conference of 1808 devised and adopted the constitution of the Methodist Episcopal Church and its successor organizations. In the constitution it included the First Restrictive Rule, which constrained any future General Conference from establishing doctrinal standards contrary to those previously and presently established.

(a) *The Rule.* The First Restrictive Rules remains decisive for any judicial assessment or action of church or civil law that concerns any use of local Methodist church property. It states: "*The General Conference shall not revoke, alter or change our Articles of Religion, nor establish any new standards or rules of doctrine contrary to our present existing and established standards of doctrine*" (JGC, 1808, 89). The Restrictive Rule intends to protect United Methodists from doctrinal tampering, and to protect the title deeds from such tampering. Thereafter if the General Conference sought to modify the doctrinal standards, it would face the obstacle not only of the title deeds but the Restrictive Rule.

(b) *Distinguishing the Two Complementary Clauses of the First Restrictive Rule.* In this restriction on legislation, there is a two fold prohibition, first against any revocation, alteration or change in the Articles of Religion, and secondly, against any new standard or rule contrary to "present existing and established standards", i.e., in reference to the same standards stated in the model deed (1763) and the deed of settlement (1796). These two clauses address two complementary dimensions of our doctrinal standards:

First, the teaching of the Articles were not intended to set forth distinctively Methodist teaching, but to indicate *what our doctrine shares with all Reformed Protestantism, and with all ecumenical*

Christianity generally. The first clause does that.

The second clause deals with *the distinctives of Methodist teaching that shine forth in the Sermons and Notes (on themes like assurance, holiness of heart and life, and perfect love – not treated in the Articles*). "The original distinction between the intended functions of the Articles on the one hand, and of the Sermons and Notes on the other, may be inferred from the double reference to them in the First Restrictive Rule (adopted in 1808 and unchanged ever since)" (Disc., 1984, 45).

The distinctive phrase "shall not be revoked, altered, or changed," applies to the Articles (and after 1968 the Confession), not to the Sermons and Notes. For there has never been any thought or active initiative for changing the text of Wesley's Sermons and Notes, nor is one hardly imaginable. But there might at some point be proposed an attempt to change the Articles or Confession. What protects the Sermons and Notes under the Restrictive Rules is their long history of consensual reception, their inclusion in the trust clause for property deeds, and the irrevocable Plan of Union.

The Judicial Council, in a 1966 decision, ruled that the application of the First Restrictive Rule requires a sharp distinction between "two questions which are different in nature and must be considered and answered separately:" (i) Its first part disallows any party to "revoke, alter, or change our Articles of Religion." (ii) Its second part disallows establishing "any new standards or rules of doctrine contrary to our present established standards of doctrine" (JCD 243, 1966). The textual definition of the second part awaited the Plan of Union of 1968 and the Discipline of 1988 for clarity and unambiguous text definition. (This same sharp distinction is sustained in Judicial Council Decision 486, 1979. Decisions 358 and 468 refer to the first part as "Landmark Documents," and the second part as "the present existing standards of doctrine.")

(c) *The Second Part of the First Restrictive Rule Defined.*

The Judicial Council, in a 1966 decision, ruled that the application of the First Restrictive Rule requires a sharp distinction between "two questions which are different in nature and must be considered and answered separately:" (i) Its first part disallows any party to "revoke, alter, or change our Articles of Religion." (ii) Its second part disallows establishing "any new standards or rules of doctrine contrary to our present established standards of doctrine" (JCD 243, 1966). The Judicial Council in 1966 left it to the General Conference to specify the texts of "our present established standards of doctrine," which the General Conference of 1988 did, and with which all subsequent Disciplines agree, namely, that these "established standards" included Wesley's Sermons and Notes, and these are still indicated and listed as doctrinal standards in the present Discipline (Disc., 2000, para. 103, p. 71).

Although several Judicial Council decisions (JCD 358, 1972, JCD 947, 1998; JCD 871, 1999) speak only of three documents, the Articles, Confession, and Rules, (which shall "not be revoked, altered, or changed"), the same ruling 358 properly divides the documents covered under the Restrictive Rules into these same two parts, first, Articles, Confession, and Rules, and second "any new standards or rules of doctrine contrary to our present existing standards of doctrine" (JCD 358, 1972). When this ruling was made in 1972, the Judicial Council elected not to rule on whether the 1968 Report of the Theological Study Commission on Doctrine violates the

Restrictive Rules, but subsequently in the 1988 and following Disciplines this is made clear and textually specified.

(d) *Continuous Binding Authority.* If the binding authority of these "present existing and established standards" had been questioned, it surely would have been earnestly debated and there would have been some written record or residue of the debate of such an important issue, and the controversies accompanying it, and some indication of the course of discussion in 1808, but there is no such paper trail. A motion explicitly stricken from the record cannot be used as an argument, since it is an argument merely from silence. Exactly what was meant by "our present and existing standards of doctrine" in 1808 was clear to all Methodist preachers and ordinands because it was simply the continuation of the steady textual tradition written into every trust clause. "The Articles did not annul anything in the old standards and there was no act of abrogation" (Bishop T. Neely, DSM 207). These standard documents have repeatedly been confirmed without any hint of a record of dissent from the earliest times.

I have sometimes been asked what would ever cause me to leave the United Methodist Church—surely there must be some limit. I always answer simply: "abrogation of the First Restrictive Rule." Wrote Nathan Bangs: "knowing the rage of man for novelty, and witnessing the destructive changes which have frequently laid waste the church by removing ancient land marks, and so modifying doctrines and usages as to suit the temper of the times, or to gratify either a corrupt taste or a perverse disposition, many had felt uneasy apprehensions for the safety and unity of the church and the stability of its doctrine" (History of the M. E. Church, 4 vols., NY: Carlton and Porter, 1859, pp. 223-4) — hence the First Restrictive Rule was written, and became virtually unchangeable constitutionally.

When the Judicial Council was asked to allow "deletion by the General Conference of provisions of the Constitution no longer relevant because of passage of time," the Council answered: "No portion of the Constitution... may be amended or deleted by the General Conference without the required vote in the Annual Conference" (Judicial Council Decisions, hereafter JCD, 483, 1980).

4. How the Exception of 1832 Made Any Amendments to the Trust Clause in Property Deeds Even More Formidable

After 1808 the First Restrictive Rule was in effect. But in 1832 a decisive proviso was added that made the Restrictive Rule even more difficult to circumvent. This was a brilliant procedural defense to protect all Methodist pulpits and their property deeds legally from abuse or maladministration, somewhat analogous to the Bill of Rights.

What is *the Exception*? In 1832 the church provided a daunting method for amending the Restrictive Rule, so demanding as to be generally perceived to be virtually impossible. According to the Exception of 1832, the Restrictive Rule could be changed only by "*the concurrent recommendation of three fourths of all the members of the several annual conferences who shall be present and vote on such a recommendation, then a majority of two thirds of the conference succeeding*" (JGC 1832, 378). This still remains immovably fixed in our constitutional polity that governs all local church property. There has been no serious attempt in Methodist history to abrogate or amend the First Restrictive Rule and very likely there will not be. The Restrictive

Rules are the only portions of the constitution subject to such strict defense against amendment.

This is the only method for changing the Restrictive Rule, and hence the trust clause, and hence the terms for legal property use. It is most formidable and exacting. The provision for amending the Rule is a double process, as stated by Bishop Thomas Neely: "First it would be necessary to amend the provision for amendment by striking out the words 'excepting the first article.' This could be done by the .... action of two thirds in the General Conference and the concurrence of three fourths in the Annual Conference." (A History of the Origin and Development of the Governing Conference in Methodism, Cincinnati: Hunt and Eaton, 1892, 405).

Hence no General Conference can amend the first and second Restrictive Rules on its own authority, without "a three-fourths majority of all the members of the annual conferences" (Disc., 2000, para. 57, p. 39). Any proposed amendment can occur only by this extremely demanding procedure that virtually insures its continuing effect: first one must amend the Exception, and only then amend the Restrictive Rule. Either step presents a formidable barrier, and together they make the Rule virtually unamendable. Few today think the First Restrictive Rule can be changed. *It is the central fortress of American Methodist constitutional system. But what is pertinent to this argument is that its doctrinal standards are guaranteed in every trust clause of every local church in all subsequent Disciplines.*

PART THREE: PENDING ISSUES

A. PROPERTY ISSUES AND DOCTRINAL ACCOUNTABILITY TODAY

1. The Intimate Interweaving Between the Restrictive Rules and the Trust Clause

The Restrictive Rules define and protect the texts of the doctrinal standards. The Trust clause defines and protects the use of church property based on the doctrinal standards. These intermesh so as to support each other.

These doctrinal standards are pertinent to the assessment of the work of any ordained minister or bishop, and to the proper use of church property, under the direct authority of the local church trust clause, as explicated in the Discipline.

2. Who is Accountable?

The Council of Bishops has responsibility for "carrying into effect the rules, regulations, and responsibilities prescribed and enjoined by the General Conference and in accord with the provisions set forth in this Plan of Union" (Disc., 2000, para. 45, p. 35), which provisions clearly specify its four doctrinal standards. If the Council of Bishops fails to carry into effect these responsibilities, the offending members of the Council could be charged with failure to provide episcopal supervision, for "The Council of Bishops is charged with the oversight of the spiritual and temporal affairs of the whole church" (Disc., 2000, para. 427.3, p. 288).

These doctrinal texts are constitutional standards not amendable by General Conference that do not depend upon approval from any Annual Conference or bishop or superintendent because all United Methodist polity is accountable to them.

No candidate for ordained ministry can ignore them, or be approved without answering the questions on willingness to preach United Methodist doctrine and implement United Methodist Discipline (Disc., 2000, para. 327.8-10, p. 214). If ordained ministers do not know or cannot in good conscience consent to the doctrinal standards they once voluntarily agreed to teach, then they may be subject to chargeable offenses.

The Fourth Restrictive Rule (Disc., 2000, para. 18) provides the right to fair trial for both clergy and laity under the assumption of accountability to the doctrinal standards protected by the First and Second Restrictive Rules. No judicatory or local church or person has the right to deny or be denied due process to those seeking to obey church law.

3. The 1988 Decision on United Methodist Doctrinal Standards

The clarity and firmness of the Plan of Union was one of the major reasons why the Committee on Our Theological Task in 1988 resisted an interpretation of the doctrinal standards that would privilege the Articles as more decisive. The argument for this approach (based upon a presumed motion that was subsequently *stricken* from the minutes of the 1808 General Conference) elicited a three-year debate that ended in 1988. That proposal was defeated in legislative committee, and was never even formally presented to the General Conference. However distressful, the debate had one salutary effect: It made it necessary for the General Conference to make entirely unambiguous the protected status of the Sermons and Notes as "our doctrinal standards," which it did in 1988. This controversy elicited a thorough reexamination of the phrase: "our present existing and established standards of doctrine."

4. The Present Discipline Confirms "Our Doctrinal Standards" Textually

The headings of the current Discipline clearly list the texts of Our Doctrinal Standards and General Rules (Disc., 2000, para. 103, pp. 59-74). They are the outcome of the 1988 decision. In order to avoid any confusion, they are listed by document title as follows:

THE ARTICLES OF RELIGION OF THE METHODIST CHURCH
THE CONFESSION OF FAITH OF THE EVANGELICAL UNITED BRETHREN
THE STANDARD SERMONS OF WESLEY
THE EXPLANATORY NOTES UPON THE NEW TESTAMENT
THE GENERAL RULES OF THE METHODIST CHURCH

All of these are important. The General Rules assert "the connection between doctrine and ethics" (Disc., 2000, para. 101, p. 49). They are sometimes treated under doctrinal standards, but more often as the bridge between doctrine and ethics. But they are protected by a Restrictive Rule, Article V (Disc., 2000, para. 19, p. 27). They "convey the expectation of discipline within the experience of individuals and the life of the Church. Such discipline assumes accountability to the community of faith by those who claim that community's support" (Ibid.).

5. Free Inquiry Within Doctrinal Guidelines

The Discipline rightly protects "free inquiry *within* the boundaries defined by" our doctrinal tradition and standards, assuming that "*Scripture is the primary source and criterion for Christian doctrine*" (Disc., 2000, para. 69, p. 78, italics added)." "Our standards affirm the Bible as the source of all that is 'necessary' and 'sufficient' unto salvation (Articles of Religion) and 'is to be received through the Holy Spirit as the true rule and guide of faith and practice' (Confession of Faith)" (Disc., 2000, para. 69, p. 78).

Our doctrinal standards do not demand of laity "unqualified assent on pain of excommunication," but the questions for ordination and the possible charges against elders and bishops place the ordained clergy under rigorous voluntary requirements. The standards are to be viewed as model sermons, exegetical notes, and explicit condensed confessions, as guidelines "for the sake of authentic renewal" (Disc., 2000, para. 102, p. 59). But this does not give license to "'theological indifferentism'— the notion that there are no essential doctrines" (Disc., 1980, para. 69, p. 73). Other doctrinal summaries may be constitutionally written, but *"without displacing those we already have*" (Disc., 1980, para. 67, p, 50, italics added).

B. NEXT STAGES OF THE RELATION OF CHURCH LAW AND CIVIL LAW

These historical observations and constitutional guarantees provide a new opportunity for regrounding the United Methodist tradition in its doctrinal heritage: Scripture, ancient ecumenical teaching, and Wesleyan standards, tempered by reason and Spirit-filled experience.

1. The New Opportunity for Regrounding

The rediscovery and appropriation of the trust clause provides a promising opportunity for those faithful to the connection to restate and reformulate the contest for theological integrity in a decisive way. These are legal guarantees. Laity can now examine their own local church title deed, and read their Discipline as to how it connects that deed with established doctrinal standards.

Have these property deeds previously been considered an obstacle or a boon to those faithful to the connection? Admittedly, the trust clause has often been wrongly viewed as an obstacle. Until recently some local church trustees have chaffed over the requirement that they yield their property to the Annual Conference Board of Trustees when suspected of violating the Discipline. Sometimes they have not known their constitutional rights under church and civil law. Some have developed a long habit of assuming that the trust clause as tendentiously argued was largely a stumbling block for them. They have imagined that if they disagreed with the bishop or conference leadership, they would be faced with the dire alternative of surrendering the local church property itself to a judicatory that they may have considered unfaithful to United Methodist doctrine and discipline.

Now the tables are turning. The reconsideration of these constitutional guarantees of the trust clause places our property dilemmas in an entirely different light: Now the trust clause can be rightly understood to be a legal instrument to call the judicatory itself to account under its own constitution, based on a continuing unchanging tradition of both historical and contemporary

documents that have juridical and binding import. The very trust clause that has sometimes been abused, under recent interpretation, so as to batter and hammer doctrinally faithful local churches and threaten to wrest their very property from them, may now be seen itself as a powerful argument in defense of their claims, provided they are rigorously faithful to doctrinal and disciplinary standards, and they have judiciable evidence that the judicatory has been less than faithful to those standards.

2. Are Painful and Expensive Court Challenges Ahead For Those Who Defy Church Law?

It is right to ask about the potential cost of court challenges that would seek accountability to our doctrinal standards. They would temporarily divert monies away from mission to doctrinal defense. So such challenges need to be strictly limited, and focused on constitutional issues. Above all the causes leading to the need for challenges must be promptly corrected in order to avoid incurring these costs.

The diversion of church funds into civil defenses and attorney's fees must be kept to an absolute minimum, and not opted for impulsively. Any test of church or civil law should be selected with great prudence and wisdom, for its precedential value, and not to make a scene or express outrage. Rather the whole purpose must be not to change church law or due process, but to call our own officials to take church law seriously.

There is a very simple remedy for all parties, whether conservative and liberal: Teach according to our doctrinal standards. That would instantly clear up most difficulties. If they wish to teach doctrines not specifically covered by the doctrinal standards, they at least are required to show how they do not conflict. It is those who insist on teaching contrary to our doctrinal and disciplinary standards, or who neglect them or treat them purely as symbols, who are most responsible for initiating divisive actions and expensive legal contests. But when the very teaching center of our church is at stake, the faithful will most certainly be expected to defend it.

Do current United Methodist bishops or judicatories or conferences or pastors or committees of investigation or courts have legal standing in their attempts to change or revise doctrinal standards that have been in effect and textually reconfirmed and specifically incorporated into the legal deeds for church properties for over 200 years, and never abrogated? The rational answer is no, but that rational answer may have to be once again tested in courts of church and civil law by those who are determined to run roughshod over these standards. This issue is now being debated, and in some conferences of the beleaguered United Methodist connection, there will be open contests on specific points of administrative law, made necessary only by those who secretly or openly wish to circumvent or avoid the historic trust clause pertaining to the use of church property.

3. Are These Legally Binding Standards, Testable in a Court of Law?

But are these historic doctrinal standards legally binding standards in a court of civil law? Are they not merely canon law with no standing before the courts?

The courts have no business whatever entering into doctrinal disputes or determining church law

as such. They have a consistent record of not entering this privileged territory, commendably.

But they do have jurisdiction and valid interest in certain *spheres of distinctively civil action* (as distinguished from church law, doctrine or polity). Here is a short list of ten of these arenas:

- the right use of property under the trust clause in legal deeds,
- abuses of constitutional rights under the U.S. Constitution and Bill of Rights (such as limiting freedom of worship, speech, press, or assembly)
- taking of property without just compensation,
- the due performance of contracts,
- the rights of faithful laity to use church property,
- the fair examination of evidences of fraud or malfeasance,
- abuses of due process under civil law,
- actions against public policy or actions disruptive of public order that offend public decency (such as the disruption of communities, the embitterment of laity, the presumptive or preemptive exercise of questionable authority)
- the guarantee that organizations be able to operate under their own legal and constitutional constraints.

The above points of law are not matters of church law alone, but also of civil law, hence referable to civil courts if need be. There is little doubt that in some of these potentially contested arenas the trust clause in property deeds will have directive, judicial, and legally binding authority enforceable under civil law. It is along the lines of these issues that actions are probably going to occur.

4. Remaining Questions

What does all this mean? When the use of property is disputed in challenges that inveigh against United Methodist doctrine, any member of the United Methodist Church has the right to ask the judicatory or conference to show cause that it is acting accountably under the Articles, Confession, Notes and Sermons.

Among the questions ahead for us: On what legitimate grounds do those faithful to the connection stand in the attempt to guarantee the terms of use of church property according to our constitution, as stated in the trust clause? What is to be done about those who presume to remain in the connection but refuse to obey its rules? What are the rights of those faithful to the connection under the civil law to use local church property? At what points could current controversies on basic questions embraced and covered by the doctrinal standards, (such as the trinity, creation, incarnation, the unique Lordship of Jesus Christ, atonement, resurrection, and the great commission, as found in the Articles, Confession, Sermons and Notes) erupt into fair-use-of-property issues?

5. The Understandable Reticence of the Judicial Council to Deal with Doctrinal Questions

The Judicial Council has a long record of being wary of engaging in any adjudication of theological issues, feeling that its native and proper role is largely in matters of contested specific

points of church law, constitutional interpretation, and structural issues. The Conference with its investigatory procedures has been viewed as the proper place to adjudicate most doctrinal issues. That is a proper motive as long as the Conference itself is accountable to the constitution and doctrine of the church.

But the Judicial Council has not hesitated on some occasions to enter the doctrinal arena in cases where constitutional and disciplinary questions interface with doctrinal issues (see Judicial Council Decisions 86, 142, 243, 358, 847 and 871). The Judicial Council judges have rightly eschewed becoming arbiters of doctrine, but also rightly have made occasional judgments when necessary on how the doctrinal standards are to be administered under church law and historic precedents.

"The Judicial Council, historically... has refused jurisdiction over Questions which demand of it theological interpretations" (JCD 358, 1972, also 468, 1979). Nonetheless the Council ruled that it had jurisdiction on the authorization of the General Conference to adopt the Report of the Theological Study Commission. While the Council has preferred to act not on "a matter of theological interpretation rather than of judicial decision," the Council has not hesitated to confirm the protection under the General Rules not only of the Confession and Articles but also "the Wesleyan 'standards" (JCD 243, 1966). "In a Decision handed down May 7, 1948 (see Decision 59) the Judicial Council held that it not "set up as an interpreter of doctrine but as an interpreter of law from the strictly legal standpoint." (JCD 86, 1952). Nonetheless it acted to disallow an addition to the doctrinal standards. "The phrase 'is the creation of God and,' though generally accepted as true, would be changing or altering the plain and simple language of Articles XIII... and is therefore in violation of the First Restrictive Rule" (JCD 86, 1952).

6. The Remedy

If doctrinal standards are (as I think can be legally and textually established) the primary criteria for judging the proper use of church property, it seems inevitable that the Judicial Council will be called upon to enter this arena in special cases. If Conference Committees of Investigation refuse to investigate blatant violations, and if bishops take a hands off posture toward continued abuses and willful disobedience to the church's doctrine and discipline, and if bishops refuse to call their fellow bishops to account on outrageous doctrinal disasters, the church may be left temporarily without remedy. But only temporarily.

This remedy might first come through rewriting the remedial provisions of the Discipline in a way that will provide checks and balances on the abuse of episcopal collegial privilege. If a bishop publicly disavows a central point of UM doctrinal teaching, one that is consensually unquestionable, such as the incarnation or resurrection, and if the judicial council has no remedy except to refer it to other bishops who are unwilling to act on it on pain of embarrassing their fellow bishop (as has proven to be the case in recent challenges), those faithful to the connection eventually will seek and, I think, find a remedy through the General Conference. But the legislative processes of the General Conference are a much more painful and difficult arena than the more simple and direct route of appealing to the conscience of the bishops and council to do the right thing – their already sworn and consecrated duty.

If civil courts assume that the hierarchy must prevail in a church with bishops, it must be pointed out that the bishops and elders and conferences are just as bound by the constructive trust doctrine as is the local church. There is good reason for those faithful to the connection to guard and hold the property, as a parallel to guarding and holding the faith.

C. CIVIL APPEAL

1. Should Christians Even Be in Court?

Those faithful to the connection have a moral duty seldom if ever to go to court. It is far better to resolve all matters without the civil authorities being requested to help us resolve internal abuses within our connection, including right use of property under the trust clause. *But if those faithful to the connection cannot solve constitutional issues in accord with our doctrinal standards, and no remedies are provided, especially in the case of bishops and investigative committees covering up one for another contrary to church law, then in self defense we can and at times must appeal to due process under law to ensure those rights.*

When those faithful to the connection and its doctrines have been expelled from their own church property, when the keys to the church locks have been abruptly changed without notice or due process, they may find it necessary to ask the courts to guarantee their legal rights to follow the established doctrine of our own church under the provisions of its trust clause.

Such abuses and challenges should never have happened, and should never have been pressed so far by schismatic ideologues in defiance of established church law. But the fact is that those faithful to the connection have at times been expelled or threatened to be expelled from their local church property by judicatories and officials acting unconstitutionally. When this happens we are able justly to appeal to our rights under civil law, just as Paul appealed to Caesar. That, you will recall, was a civil action under a civil magistrate (Acts 25:11).

My reason for writing this is to establish for any lay person or pastor or counselor to a pastor who may want to understand what are their legal rights to use their local Methodist church property according to established church doctrine and polity. Those who are faithful to the connection have good reason to face those courts with confidence. They have a right to legal standing that unfaithful abusers of the connection and its doctrines do not, in my view, have with impunity.

2. The Keys to Church Property

The local board of trustees, along with the pastor as administrative officer, is in charge of the due use of the keys to church property. If an appeal is deemed necessary to ask for civil protection of the church property under the conditions of the title deeds tradition, then the pastor and trustees should be thoroughly prepared with historical arguments to make their case, even if necessary by asking civil courts for such protection. Under conditions of controversy the presumption must be that the keys belong in the hands of the local board until denied by a court of church law or civil law. There is no presumption in United Methodist polity that the Conference has a right to seize property without due process.

These are not theoretical questions. In a number of contested cases in California, Iowa, Washington, Alaska, and other places, some of these appeals have been required. *Thankfully only a few have come before civil courts of law. We all agree that we prefer to settle such disputes on biblical grounds (Mt. 18:15-17) under due processes ordered by church law and without any civil appeal.*

3. The Biblical Constraints on Believers in Court

Faithful Christians must remember the biblical mandate not to bring into court other believers whose lives intend to be ordered according to apostolic teaching (1 Cor. 5:9-6:12). The question remains, however, as to whether an apostasizing church official can rightly be viewed as a believer. One who rejects the triune God and the resurrection of Jesus cannot, according to our established doctrinal standards, rightly be called a practicing believer. Nominal Christianity (which has the form but not the power of godliness) is precisely what Wesley's teaching seeks to overcome.

The pertinent text here is 1 Corinthians 5 and 6. Paul has just instructed the Corinthian church "not to associate with sexually immoral persons" (5:9). "Do not even eat with such a one. For what have to do with judging those outside? Is it not those who are inside that you are to judge? God will judge those outside. Drive out the wicked person from among you." (5:12-13). "*Those inside*" refer to those who proclaim Christ crucified, who receive the true wisdom of God, who do not causes divisions in the church, who follow the apostolic teaching, and who do not defile the church by sexual immorality. "*Those outside*" are those who do not choose to be accountable to apostolic teaching. Let God be their judge. Within this context, within the community of the faithful, Paul instructed the Corinthians not to take a grievance "to court before the unrighteous, instead of taking it before the saints" (6:1). "If you have *ordinary cases*, then, do you appoint as judges those who have no standing in the church?" (6:4, italics added). In reference to *believing Christians*, Paul makes it clear that: "In fact, to have lawsuits at all with one another [as believing Christians] is already a defeat for you" (6:7). "Do you not know that wrongdoers will not inherit the kingdom of God?" (6:9a). "Fornicators, idolaters, adulterers, male prostitutes, sodomites, thieves, the greedy, drunkards, revilers, robbers – none of these will inherit the kingdom of God" (6:9b). The point: If you get so far as to go "to court against a believer" – one who is seeking to be accountable to the Lord – you are already defeated, and it is better to be wronged.

All this pertains to believers (not non-believers) contesting "ordinary" (not extraordinary) cases (6:4). But where unbelievers pretend to be believers, in *extraordinary cases,* they must be gently admonished first, and by due process counseled toward repentance, remembering that God will bring to judgment both the righteous and the wicked (Mt. 18:15-17). In matters of dispute over fraud or truth-telling or contractual accountability or due process under civil law, then disputants may rightly "come into court and the judges decide between them" (Deut. 25:1 English Standard Version, hereafter ESV). But it is always wiser to "Come to terms quickly with your accuser while you are going with him to court" (Mt. 5:25 ESV). We are not to go to court at all unless all church due processes and canon law measures have been actively pursued, exhausted, and no remedies found, and the faithful laity are still without any resolution consistent with Christian teaching.

D. WHAT IS AHEAD?

Amid any controverted question it is crucial to the unity of the body of Christ to maintain civil discourse, willingness to repent, gentle admonition, and charity toward all.

1. Maintaining Civil Discourse

Contested questions should be rationally argued on the basis of accurate historic textual evidence, constitutionally licit grounds, charitably, and without undue passion, yet with determination to continue in a guardianship role for classic Christian and Wesleyan teaching.

The rules of fair process call for the presumption of innocence, a right to be heard, due notice, right of counsel, full disclosure, and access to records. Due process seeks just resolution of differences in the hope that God's work of justice may be realized in the body of Christ (Disc., 2000, para. 2701).

2. On Cover-ups: When Bishops Default on the Protection of the Laity from Divisive Teaching

The crisis of pedophilia in the Catholic Church surely should have taught us something about the public accountability of bishops. An eruption may be ahead that may require local congregations to call into accountability *bishops who have repeatedly left unadmonished pastors who openly inveigh against established points of doctrine and discipline, or who cover up for others' misdeeds.*

If someone repeatedly and blatantly offends against the Discipline and the offense is covered up by a bishop or church official responsible for due administration of discipline, then that bishop or church leader may be liable to being charged with "failure to perform the work of ministry," "disobedience to the Order and Discipline of the United Methodist Church," or "dissemination of doctrines contrary to the established standards of doctrine of the United Methodist Church" (Disc., 2000, para. 2702). The bishop has the solemn duty to follow and enforce church law. Among all duties, the bishop is consecrated first of all to "guard the faith, order, liturgy, doctrine, and discipline of the Church against all that is contrary to God's Word" (Order for the Consecration of Bishops).

But what if that process of appeal is blocked by those very judicatory offices ordained and voluntarily promised to protect these doctrines? What if a bishop charged with protecting church law stands in the way of a local church committed to our doctrinal and disciplinary standards? When all church due processes are exhausted, it may require a remedy under civil law under the terms of our constitutional history and deeds of conveyance.

If an ordained United Methodist minister or bishop preaches contrary to a point of doctrine specifically defined in one of our Articles of Religion, such as the sufficiency of the Holy Scriptures for Salvation, or the triune God, or justification by grace through faith, or baptism, then he or she can be charged with disseminating doctrine contrary to the church. The bishop who protects such clergy cannot be considered blameless.

If a bishop or conference can be shown to be unfaithful to the doctrinal and disciplinary standards

required in the trust clause, they can indeed be required to show cause that they have legitimate access to local church property. If an unfaithful judicatory or official should attempt to shut down a faithful local church or change its locks or intrude upon its right to teaching Wesleyan doctrine, then be assured that the trust clause protects the local church against such intrusions. If due processes within church law cannot find remedies, they must be sought under broader rights protected by civil law.

3. The Wide Range of Moral Questions Explicitly Addressed in the Discipline

Some may press for a distinction between moral questions (such as sexuality issues) as distinguished from obvious points of doctrine such as trinity, incarnation, atonement, the lordship of Christ, and the resurrection. In these cases where no central doctrine is repudiated, but moral accountability is involved or discipline is neglected or abused, appeal may be made first to scripture and then to the clear moral requirements of the Discipline, and to the Sermons and Notes, Articles and Confession. The Discipline is very clear on many matters, such as stated duties of pastors (Disc., 2000, para. 323-327), immorality in the pastoral office (2702a), the covering up of immorality in the pastoral office (2701-2714), fraud (806), dissemination of doctrines contrary to the established standards of doctrine of the United Methodist Church (2702f), abuses in bequests and or in accountability to donors (1504.17), abuse of open financial record-keeping and public disclosure requirements (806), restrictions on closed meetings of official agencies (721), failure to perform the work of the ministry (2702d), racial discrimination (604.1), pedophilia and child sexual abuse (2702 i, j; 1118.1; Book of Resolutions 2000, p. 180), prohibition of funds to promote the acceptance of homosexuality (806.9), performing prohibited ceremonies for same sex unions (332.6), ordination candidacy for homosexual persons (304.3, 306.4f, footnote 2), self-avowed practicing homosexuals (304.3, and note 1), fidelity in marriage and celibacy in singleness (306.4.f and note 2), and performance evaluations of pastors (331). Our Discipline has already provided in most cases adequate remedies, except in cases where bishops protect bishops or pastors from fair-minded investigation.

4. When Bishops Protect Bishops

The Order of Consecration of Bishops and the Discipline's paragraphs on the duties of the bishop clearly require the bishop to maintain the doctrinal standards (Disc., 2000, para. 2721, sections b, d, e, and f, 404.1). *If bishops protect bishops from investigation and trial, leaving the laity with no remedy against bishops who are otherwise quite unable to be disciplined, then the faithful in the connection must go back to the most basic understanding of what is permissible according to the trust clause.* The laity will necessarily be taking the lead here, because pastors are under far more rigorous disciplinary constraints and obligations than laity. "Whenever a bishop violates this trust... continuation in the episcopal office shall be subject to review" (Disc., 2000, para. 413, p. 277).

If bishops ignore, delay or circumvent efforts at due process, or if they collude to protect each other from investigation or trial, then the issue may become one of failure to perform the work of ministry, or disobedience to the Discipline, or refusal to protect the church from "practices declared by the United Methodist Church to be incompatible with Christian teaching," or in some cases even fraud or collusion.

All remedies must first be sought through church law, but when those remedies fail, the more basic remedy always available is the appeal to the title deeds under which United Methodist buildings and property are legally protected and duly constituted. To this we can make an appeal first before church courts, and under extreme conditions under civil courts, if needed, never unnecessarily, but only if no other judiciable remedies are available, as in the case of bishops protecting each other from investigation.

5. The Appeal to the Trust Clause of Property Deeds

The courts do not have a choice as to how to define church law. On that they rightly recuse themselves. Administration of United Methodist church law is defined by the constitution and by the General Conference acting under the constitution, not by the courts. The courts have no jurisdiction except in cases of flagrant repeated abuses of civil liberties or the clear conditions of the title deeds that govern the use of every local church property, or in cases where some of the civil guarantees listed above require investigation.

We are not here setting forth any new arguments on moral questions, least of all on sexuality issues. These the United Methodist Discipline has already repeatedly and adequately defined, by ever increasing majorities (from two-thirds to three-fourths majorities). These matters are already long established church law. The contest is no longer about what church law is. That is already defined by the Discipline, which some officials (purporting connectionalism) now seek to ignore, contravene, or cover up. The faithful laity will find a way of seeking a due remedy for the cover-ups of those unfaithful abusers of connectionalism who are disrespectful of our doctrinal standards, and who thereby cause schism and divisions.

If faithful congregations are deprived of or threatened to be expelled from their church property as they have been challenged in Omaha and Fairbanks or Fresno or other places, we need not be afraid to ask that the civil rights of those faithful to the connection be protected. It is a civil right to receive due process under law concerning right use of title deeds. The faithful have a civil right to have the constituting rules of order that have prevailed for over two centuries respected by our own judicatories and bishops.

6. Answering the Three Most Common Objections

Three common objections resist all doctrinal definition and accountability, and seek doctrinal permissiveness. They are familiar:

(a) "*But we are not a doctrinal church.*" The most common objection to taking doctrinal standards seriously is very flimsy and historically uninformed – it is (and we have heard it a million times) sometimes claimed that: "We are not a doctrinal church." If we are not a doctrinal church, why do we have doctrinal standards? Why do we guarantee them to be unchangeable? Why do we require clergy to understand and consent to them and preach them in good conscience? Why do we provide for chargeable offenses when they are offended against? We have doctrinal standards that are embedded in our use of church property. These doctrinal standards have over two centuries of consent and continuity, with no abrogation.

(b) "*But we encourage theology based on experience.*" In fact the Discipline calls us to "interpret our *experience in terms of Scripture.*" (Disc., 2000, para. 104, p. 81, italics added). Indeed "We interpret experience *in the light of scriptural norms*" (Ibid. p. 82, italics added). Experiential theology is viewed in connection with Mr. Wesley and his writings: "We follow Wesley's practice of examining experience, both individual and corporate, for confirmations of the realities of God's grace attested in Scripture" (Disc., 2000, para. 104, p. 81).

(c) It is sometimes objected that: *"We are not a confessional church."* The argument that we are entirely non-confessional is evasive and weak. We actually do have a Confession (or have they noticed?) – the Confession of Faith (Disc., 2000, para. 103). If we are not a confessional church, why do we have a Confession? And why would we protect that Confession with an extraordinary bulwark of constitutional guarantees that it not be revoked, altered, or changed (para. 16).

CONCLUSION

We are not cranks, not historically unsophisticated, not congregationalists in polity, and not divisive. We will not be intimidated. And we are going to stay.

We can no longer keep silent, and we will not be harassed or chased out of the church that baptized us and taught us to respect integrity and due process.